

**REMARKS**

The present invention is an apparatus selecting one of a plurality of service providers which are available to a computer system for connection to a network, a method of selecting one of a plurality of service providers for connecting a computer system to a network, a computer network system, a networked communication system, and a system for selecting one of a plurality of service providers for connecting a computer system to a network.

Claims 1, 3, 5-6, 8-9, and 14 stand rejected under 35 U.S.C. §103 as being unpatentable over United States Patent 6,029,203 (Bhatia et al) in view of United States Patent 6,476,521 (Lof et al) further in view of United States Patent 6,243,754 (Guerin et al). These grounds of rejection are traversed for the following reasons.

With respect to claims 1 and 8, the Examiner reasons as follows:

As per claim 1 and 8, Bhatia et al teaches an apparatus for selecting one of a plurality of service providers which are available to a computer system for connection to a network, the apparatus comprising (See col. 5, lines 60-62): at least one database containing data regarding various parameters of the plurality of service providers and service quality requirements for various service types (See col. 5, lines 65 and col. 6, lines 1-3); However, Bathia et al (sic) fails to teach a decision making unit connected to said at least one database for selecting one of said plurality of service providers, said selecting being made according to decision making criteria and data from said at least one database.

Lof et al teaches a decision making unit connected to said at least one database for selecting one of said plurality of service providers, said selecting being made according to decision making criteria and data from said at least one database (See col. 21, lines 38-42).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate a decision making unit

connected to said at least one database for selecting one of said plurality of service providers, said selecting being made according to decision making criteria and data from said at least one database as taught by Lof et al in the claimed invention of Bhatia et al in order to retrieve and process only relevant data from the communication system (See col. 19, lines 59-60).

Guerin et al teaches a dynamic selection of network providers. Furthermore, Guerin et al teaches one database for selecting one of said plurality of service providers, said selecting being made according to decision making criteria (See col. 3, lines 20-23).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate a decision making unit for making said selection based on decision making criteria as taught by Guerin et al in the claimed invention of Bhatia et al in view of Lof in order to determine the appropriate service provider to use for communication data to a remote called site (See col. 3, lines 12-14).

With respect to the rejection of claims 1 and 8, the Examiner has effectively parsed the claims to rely upon three references without any teaching that would motivate a person of ordinary skill in the art to combine the references. The rejection is a hindsight reconstruction of the prior art.

Bhatia et al teach ISDN LAN modem which permits connectivity between a group of users which does not correspond to the claimed decision making unit. The Examiner cites column 5, line 62 through column 6, lines 1-3. What Bhatia et al disclose is a LAN modem which presents to an ISP multiple users sharing a single account which is stated to significantly reduce collective network access charges over what users would otherwise incur. See column 5, lines 14-58. What is described in the portion of Bhatia et al referenced by the Examiner at the bottom of column 5, and the top of column 6, is nothing more than the LAN modem accommodates connection to several different user defined network service providers without a decision making unit since the users make the choice of

connectivity to a particular ISP. The ISPs storing appropriate information for each provider in a shared database, such as a user account and password information, as well as network identification, including network addresses, domain names and remote DNS server addresses, and employing this information to define the appropriate connections and properly route packets accordingly over these connections is not relevant to the issue of the decision to selection of particular service providers since the database is only to support connectivity obtained by the selection of an ISP being made by the user's criteria.

The Examiner has cited Lof et al teaching a decision making unit connected to said at least one database for selecting one of said plurality of service providers. The selection is said to be according to decision making criteria and data from at least one database with the Examiner citing column 21, lines 38-42. The Examiner's reliance upon Lof et al demonstrates a classic hindsight reconstruction of non-analogous prior art. Lof et al teach a system protection scheme for an electrical power system. See the Abstract. Moreover, the Examiner's reliance on the decision making logic 92 as a general teaching is totally misplaced. Column 20, lines 36-67, through column 21, lines 1-45, clearly describe that the decision making logic is with respect to power system variable database which is described as "contain[ing] information, not only about the power network variables and units connected directly to the system protection terminal 18 in question, but through the communication network 22 also about power network variables associated with other system protection terminals." It is clear that the decision making unit 92 works in concert with the power system database 93 which combined units clearly represent non-analogous art to Bhatia et al given Bhatia et al's disclosure of providing ISDN LAN

modem connectivity. If the Examiner persists in the stated grounds of rejection in relying upon the combination of Bhatia et al and Lof et al, it is requested that he explain on the record how Lof et al pertains to either the same field of endeavor as Bhatia et al or addressing a common problem which are the criteria which must be satisfied for prior art to be analogous. What is apparent is the Examiner has found "a decision making unit" *per se* which has nothing to do with the claimed invention and certainly that would be combinable with Bhatia et al except by impermissible hindsight.

Additionally, the Examiner has relied upon Guerin et al as teaching dynamic selection of network providers with the Examiner further stating that Guerin et al teach one database for selecting one of said plurality of service providers, said selecting being made according to decision making criteria with reliance upon column 3, lines 20-23. Guerin et al disclose that routers 109 and 117 may be used to select a specific service provider from a number of providers to exchange a specific set of application data. See column 3, lines 8-28. It is submitted that the referenced portion of Guerin et al, in lines 20-23 of column 3, describes nothing more than a process of connectivity to a particular service provider from different possible choices which are in accordance with cost, quality of service, pre-established business contracts, etc. It is therefore seen that the aforementioned routers 109 and 117 may provide selective connectivity to provider networks 105 and 107. The teaching of Guerin et al pertain to the selection of ISPs and it is submitted that it is also non-analogous to Lof et al for the reasons stated above.

Claims 1 and 8 specifically require in substance the storing of data in at least one database regarding parameters of each service provider and service quality

requirements for service types. It is submitted that this subject matter is not suggested by the selection criteria of Guerin et al which merely discusses the selection of a service provider from different possible choices which is not described as involving data regarding parameters of each service provider and service quality requirements for various service types. Moreover, none of the references suggest a decision of selecting one of a plurality of service providers based upon a decision making criteria involving the data regarding parameters of each of the service providers and service quality requirements for service types.

In summary, it is submitted that the Examiner's rejection of claims 1 and 8 as being unpatentable over Bhatia et al, Lof et al and Guerin et al is based upon impermissible hindsight and furthermore, if the combination were made, the claimed subject matter would not be achieved in that there is no teaching of the at least one database containing data regarding parameters of each service provider and service quality requirements for service types and a decision making unit connected to said at least one database for selecting one of said plurality of service providers, said selecting being made according to decision making criteria and said data from said at least one database and is substantively recited in claim 8.

Claim 3 further limits claim 1 in reciting an implementation agent for connecting said computer system to said selected provider. The Examiner has interpreted the claimed implementation agent as being readable upon a modem. It is submitted that a modem may not be properly considered to be a "agent" in that all that a modem does is modulate and demodulate which is not an agency function. The referenced portion of Bhatia et al of column 5, lines 60-66, supports the

aforementioned interpretation that the modem does not perform any agency function.

Claim 5 further limits claim 1 in reciting that the decision making unit includes a criteria unit for providing different criteria related to different selection parameters and a decision making agent unit for making the decision based on criteria from said criteria unit. The Examiner relies upon Guerin et al in column 3, lines 20-23, as teaching a decision making unit including a criteria unit for providing different criteria related to different selection parameters and a decision making agent unit for making the decision based on criteria for said criteria unit. Column 3, lines 20-23, as discussed above, merely recite a selection for connectivity to a service provider based upon cost, quality of service, pre-established business contracts, etc., which does not read upon a combination of a criteria unit for providing different criteria related to different selection parameters and a decision making agent unit for making any decision based on criteria from said criteria. As stated above, all that is stated in the referenced portion of Guerin et al, is selection of an appropriate service provider which does not involve a decision other than by the user which is not the claimed decision making unit.

Claim 6 further limits claim 5 in reciting that the decision making unit further includes a logic unit for providing logic based on different decision criteria to said decision making agent unit and claim 9 further limits claim 8 in reciting providing logic based on different decision criteria so that said selection is also based on said logic. The Examiner has relied upon column 3, lines 15-24. It is submitted that the referenced portion of Guerin et al merely discusses a methodology of steps 203 and 205, which pertain to establishing control channel to a called site and to select

a provider to be used. The text describing steps 203 and 205 does not suggest the combination of a logic unit for providing logic based upon different decision criteria to said decision making agent unit as recited in claim 6 and further, providing logic based on different decision criteria so that said selecting is also based on said logic as recited in claim 9.

The rejection of claim 14 is traversed for the reasons set forth above with respect to claims 1 and 8.

Claims 2 and 10-11 stand rejected under 35 U.S.C. §103 as being unpatentable over Bhatia et al, Lof et al, Guerin et al, further in view of United States Patent 6,269,395 (Blatherwick et al). This ground of rejection is traversed for the following reasons.

Claim 2 further limits claim 1 in reciting an interface unit for displaying to a user the selected data provider. Blatherwick et al do not cure the deficiencies noted above with respect to Bhatia et al, Lof et al and Guerin et al. Accordingly, it is submitted that claim 2 is patentable. Claim 10 is patentable for the same reasons set forth above with respect to claim 2.

Claim 11 further limits claim 10 in reciting automatic connection of the computer system to the selected provider. Blatherwick et al disclose a computer system which provides a user interface with one or more access points for service providers. What is described in column 3 is in effect a manual selection wherein it states, "if a user selects from the user interface a first service provider through a first access point, then, without further input from the user, connecting to the first access point and launching the service". It is submitted the reference to a user does not

describe an automatic connection of the computer system to the selected service provider as recited in claim 11.

Claims 4 and 12 stand rejected under 35 U.S.C. §103 as being unpatentable over Bhatia et al in view of Lof et al in view of Guerin et al further in view of United States Patent 6,301, 568 (Globuschutz). This ground of rejection is traversed for the following reasons.

The Examiner has relied upon Globuschutz in column 4, lines 18-21, as teaching a tracking unit for updating data in said at least one database based on current conditions and said service providers. What is described in column 4, lines 18-21, is "data is received from the service provider and can also be presented to the provider to support service status and notification of network conditions effecting service". It is submitted that this does not meet claim 4 which recites "providing a tracking unit for updating data in said at least one database based on current conditions in said service providers." If the Examiner persists in the stated grounds of rejection, it is requested that the Examiner point out what the "tracking unit" is interpreted to be in Globuschutz since it is submitted that the referenced portion of Globuschutz does not teach such a tracking unit. Moreover, it is submitted that the described receipt of data by a service provider does not involve anything analogous to the at least one database as recited in claim 4 and claim 12.

Claims 7 and 13 stand rejected under 35 U.S.C. §103 as being unpatentable over Bhatia et al, in view of Lof et al, further in view of Guerin et al and further in view of United States Patent 6,282,519 (Peters et al). This ground of rejection is traversed for the following reasons.

Peters et al have been cited for teaching first and second databases with the Examiner relying upon column 7, lines 51-62. What is described in column 7, lines 51-62, are two major databases used by the customer billing system disclosed by Peters et al. However, it is submitted that the mere existence of two databases in Peters et al involving a billing system does not suggest that the claimed at least one database would include a first database for storing the configured service quality requirements of each normal service type and a second database for storing parameters regarding each provider including billing data, selection priority data, resource data and resource basic information data. It is submitted that the referenced portion of Peters et al does not describe this subject matter. The rejection of claim 13 is traversed for the same reasons set forth above with respect to claim 7.

Claims 15-17 stand rejected under 35 U.S.C. §103 as being unpatentable over Guerin et al in view of United States Patent 5,958,006 (Eggleston et al). It is submitted that the Examiner has obviously misstated the grounds of rejection which were intended. It should be noted that the second paragraph references Bhatia et al which, of course, is not relied upon in the stated grounds of rejection. It is not clear whether the Examiner is suggesting a three-way combination between Bhatia et al, Guerin et al and Eggleston et al, a two-way combination with the comments regarding Bhatia et al being superfluous or some other combination. Accordingly, this rejection is traversed as being so unclear on the record that it is not possible to respond to as stated.

Claim 18 stands rejected under 35 U.S.C. §103 as being unpatentable over Bhatia et al in view of United States Patent 5,088,052 (Spielman et al). The

Examiner relies upon column 5, lines 65-67 through column 6, lines 1-3, of Bhatia et al for teaching "a system for selecting one of a plurality of service providers for connecting a computer system to a network, comprising: means for storing data in at least one database regarding parameters of each service provider and service quality requirement. Column 5 lines 65-67, through column 6, lines 1-3, have been discussed above and merely describe that the LAN modem accommodates connections to several different user defined network service providers, e.g., ISPs by storing appropriate information for each such provider in a shared database, such as user account and password information, as well as network identification including network IP address, domain names and remote DNS server addresses, and employing this information to define the appropriate connections and properly route packets accordingly over these connections. It is submitted that this does not pertain to the claimed service quality requirement since there is no discussion of service quality in the referenced portion of Bhatia et al.

Furthermore, the Examiner relies upon column 6, lines 4-6, of Bhatia et al as teaching "means for selecting specific criteria for making a decision; means for selecting one of said plurality of providers based on data from said at least one database, and based on said criteria." It is submitted that there is no decision unit involved with Bhatia et al since it is the users who make the selection in Bhatia et al's system. The stored database is only for purposes of connectivity and is not for purposes of making a decision as recited in claim 18. Spielman et al have been cited for teaching retrieval of data from at least one database which, *per se*, of course, is well known. It is submitted that Spielman et al's system for graphically representing manipulating data stored in databases does not cure the deficiencies

noted above with respect to Bhatia et al which does not utilize a decision making process. Moreover, the Examiner's reliance upon Spielman et al "in order to process the retrieved data as called for by the selected function selection criteria" is based upon impermissible hindsight. The referenced portion of the Abstract states "[u]pon receipt of the retrieved data, the processor processes the retrieved data as called for by the selected function selection criteria to generate processed data" which would not be viewed by a person of ordinary skill in the art to be relevant to the invention. It is submitted that the Examiner's reliance upon Spielman et al is based upon impermissible hindsight since there is no basis in the record why a person of ordinary skill in the art would even use a decision criteria in Bhatia et al let alone a retrieval from a database as contended to be obvious from Spielman et al to arrive at the claimed subject matter except by impermissible hindsight.

The claims have been amended to improve their form for examination.

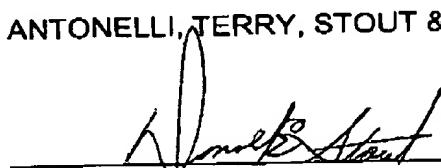
In view of the foregoing amendments and remarks, it is submitted that each of the claims is in condition for allowance. Accordingly, early allowance thereof is respectfully requested.

To the extent necessary, Applicants petition for an extension of time under 37 C.F.R. §1.136. Please charge any shortage in fees due in connection with the

filings of this paper, including extension of time fees, to Deposit Account No. 01-2135  
(0171.38874X00) and please credit any excess fees to such Deposit Account.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

  
Donald E. Stout  
Registration No. 26,422  
(703) 312-6600

DES:dlh